THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

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WRIT PETITION NO : 6216 of 2003

Dated 20th September, 2005.

Between:

Jamalapur Ramesh S/o.Ramchander, aged about 45 years, R/o.H.No.9-51-1, Narasampet, Warangal District.

Petitioner

And

The Gram Panchyath, Narasampet (Vill & Mandal), Warangal District rep. by its Executive Officer and otehrs.

Respondents.

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WRIT PETITION NO : 6216 of 2003

ORDER:

This writ petition has been filed by the Jamalpur Ramesh with a prayer to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondents in seeking to demolish the structures put up by the petitioner in a plot situated in 15th Ward in Narasampet village and Mandal, Warangal District, without initiating any proceedings or without issuing any notice as illegal and arbitrary and pass appropriate orders.

The petitioner is the owner of house Plot in 15th Ward in Narasampet (village and Mandal). He got the house property under a gift deed dated 21-12-2001 executed by his mother Smt.Jamalapuram Suguna Bai who had purchased the property admeasuring 155 Sq.Yards from Bathula Mallaiah under a registered sale deed dated 7-9-1978. The petitioner submitted an application dated 2-1-2002 for effect the mutation of his name in the Gram Panchyat records in place of his mother. After due enquiry, the respondent-Gram Panchyat mutated the name in the Gram Panchyat records by deleting his mother's name. Thereafter, he submitted an application seeking permission for construction of a house. Since the respondent 1 and 2 did not take any decision on the said application within the time specified under Section 127 of A.P Gram Panchyat Act, 1994, the petitioner proceed with the construction, subsequently, the constructions came to be removed by the respondent-Gram Panchyat by following due procedure.

The grievance of the petitioner is that the respondents having received the application has not sanctioned building permission.

The second respondent filed counter affidavit. Wherein it is stated that the application filed by the petitioner has been returned with a direction to submit revised plan. Para No.4 of the counter affidavit needs to be noted and it reads thus:-

> " I submit that the petitioner who is the son of Suguna Bai made an application to the Gram Panchyat by showing the plan in some other place which is not at all tallied with his mother's plan. To avoid the above situation he is trying to obtain a permission from the Gram Panchyat rejected his application. But he made a construction up to pillar levels without obtaining the permission from the Gram Panchyat. The same was demolished by the Gram Panchyat prior to filing of the writ petition. Therefore in the above circumstances if the petitioner wants to make a construction in the said land which is available after leaving road place he has to produce correct plan and has to obtain permission from the Gram Panchyat unless to do so he can not make any illegal construction which is violation of the rules and totally arbitrary hence the present writ petition deserves no merits and is liable to be dismissed."

Heard the learned counsel for the petitioner and the learned Standing Counsel appearing for the respondents.

The learned counsel for the petitioner submits that the respondents have not

informed the petitioner about the return of the application for building permission. Whereas, the learned Standing Counsel submits that the building permission application has been returned under notice dated 21-2-2002 with a direction to the petitioner to furnish a fresh application.

It is also to be noted that the respondent-Gram Panchyat has taken a specific stand in the counter affidavit that the petitioner can be permitted to make construction within the area in '9' feet X '24' feet subject to her fulfilling other conditions stipulated under the relevant Act and rules.

Without going into the controversy whether the notice dated 21-2-2002 reached the petitioner or not, I deem it appropriate to dispose of the writ petition with a direction to the petitioner to submit revised plan within two weeks from the date of this order and thereafter, the respondent-Gram Panchyat has to pass appropriate orders within two weeks. No costs.

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20th September, 2005.

mrb